IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.404 OF 1997

The Commissioner of Income-tax,
Kolhapur .. Applicant.

V/s.

Shri Datta S.S.K. Ltd. Kolhapur .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case, the Tribunal, relying on the Special Bench decision in the case of Shri Chhatrapati SSK Ltd. (198 ITR 78 - AT) was right in deleting the additions made in respect of non-refundable deposits, Indira Award, Small Savings, C.M. Relief Fund, Modwad relief fund, Cane development fund, interest on investment in Kisan Vikas Patra, Indira Vikas Patra, Postal Savings, Postal Time Deposits & NSC, and Hutment Fund (A.Y. 91-92 only) ?

2. The above question is to be answered in favour of the assessee and against the revenue in view of the judgment of the Apex Court in the case of

Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]. So far as Indira Vikas Patra and Kisan Vikas Patra are concerned, the findings of this Court in the case of Shree Chhatrapati SSK Ltd. have not been upset. Accordingly, the question is answered in favour of the assessee and against the revenue except cane development fund.

3. The issue with respect to Cane Development Fund is concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issue stands remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)